

EXHIBIT FF

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COPY
CIVIL ACTION NO. 04-11923-DPW

CONNECTU LLC
Plaintiff

v.

MARK ZUCKERBERG, et al
Defendants

BOSTON, MASSACHUSETTS
JUNE 22, 2006

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE ROBERT B. COLLINGS
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 oral agreement in existence on that date.

2 THE COURT: But his point is that when you have a
3 written, later written agreement that contains an integration
4 clause, you can't rely on any of the prior oral agreements.

5 MR. HORNICK: Well, Your Honor, I don't think that's
6 the law, and I'll get into that in a moment, but it doesn't
7 make any sense. If there's an oral agreement between two
8 parties that exist for say a five year period of time, and then
9 a written agreement comes along later and it operates into the
10 future and it even operates retroactively, although you might
11 be able to apply it retroactively for certain purposes, the
12 fact is that an oral agreement still existed between those
13 parties for a particular period of time. Under the law, the
14 parol evidence rule is not applicable to a collateral
15 agreement, and this was a collateral agreement. It was not the
16 same.

17 THE COURT: Why do you say collateral? If it covers
18 the same subject matter that's in the later agreement that's
19 written with an integration clause, how could it be said to be
20 collateral?

21 MR. HORNICK: It didn't cover the same information.
22 The operating agreement, the written operating agreement that
23 came in August of 2005, was a very complex document that
24 covered a lot of issues. The oral agreement that existed in,
25 that existed from the time that ConnectU was formed up until

1 the time that they signed a written agreement, which was
2 almost a year and a half later, was an oral agreement that was
3 much simpler. It was all that was needed to--

4 THE COURT: Yeah, but they, the point is that the
5 written agreement, it might have covered a lot more, it might
6 have been a lot more complex, but it did cover the same subject
7 matter as the oral agreement, which is the point the defendants
8 are making.

9 MR. HORNICK: It covered that issue, that's right,
10 Your Honor, but if you were looking at the state of facts, the
11 state of facts on September 2nd of 2004, you cannot say that
12 there was a later agreement because you can only look at what
13 the state of facts were on that date and on that date there was
14 no August 5th, 2005 agreement. It's logically impossible. So
15 if the Court is going to--

16 THE COURT: No, it's more a question of what you're
17 permitted to prove. Let me ask you this. Have you responded
18 to the integration argument?

19 MR. HORNICK: No, Your Honor, it was just submitted
20 to the Court yesterday, I believe it was yesterday, and with
21 respect to the interrogatory answer that was made in
22 California, first of all, Mr. Narendra is no longer a party in
23 that case.

24 THE COURT: It doesn't matter. It's a statement made
25 under oath. It's evidence. I was asking offer of proof of

1 what the evidence is. That would clearly be admissible.

2 MR. HORNICK: ConnectU, which is still in that case,
3 and ConnectU was the one that had members, filed an amended
4 interrogatory response in that case to clarify the answer and
5 makes it clear that Mr. Narendra is not--

6 THE COURT: It doesn't supersede what Mr. Narendra's
7 answer is. If he in fact signed that interrogatory under the
8 pains and penalty of perjury, that is evidence. The fact that
9 ConnectU tried to amend it or did amend it, may have some
10 bearing on that litigation, but it doesn't have any bearing on
11 the fact that the statement was made under oath and it's
12 evidence, evidence on the question.

13 I think what I would like to do is to give you the
14 opportunity to respond to the integration - let me just ask the
15 defendant, is this integration argument the only argument that
16 you say defeats them as a matter of law on this subject of
17 Mr. Narendra being a member or not as of September 2nd?

18 MR. CHATTERJEE: No, Your Honor, there is a second
19 issue. I think there are three issues that are matters of law.
20 The first one is the parol evidence issue.

21 THE COURT: The integration agreement?

22 MR. CHATTERJEE: The integration clause. I'll call
23 it the integration clause.

24 THE COURT: Let's call it the integration issue.

25 MR. CHATTERJEE: The second is given Mr. Narendra's

1 binding statement that he made and the fact that he made it
2 to support a Motion to Dismiss that he prevailed upon, he
3 cannot recant that statement and say that he meant something
4 different.

5 THE COURT: So is it some sort of judicial estoppel?

6 MR. CHATTERJEE: It's judicial estoppel and there's
7 also case law we've cited in our Motion to Strike saying he
8 can't change the sworn testimony that he's given. It says what
9 it says.

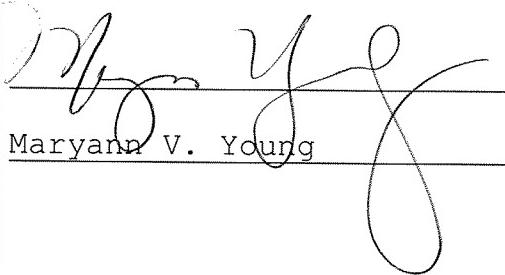
10 THE COURT: Okay. That's the sworn testimony
11 argument, and what's the third?

12 MR. CHATTERJEE: And the third one, Your Honor, is we
13 have put in our Motion to Strike, and this was something that
14 came up, that came to life because of this issue is that
15 ConnectU had not registered as a foreign LLC in the state of,
16 in the state of Massachusetts and in order in diversity actions
17 for plaintiff to proceed on their claim in federal court, they
18 have to have registered in the state of Massachusetts as a
19 foreign LLC first. They have not done that. They still have
20 not done that and they in fact cannot do it at this point
21 because the LLC has failed to exist and that is a prerequisite
22 to standing.

23 THE COURT: All right. Thank you. What I'm going to
24 do is give you, Mr. Hornick, an opportunity to respond to those
25 three legal arguments in a brief. We'll take a look at it and

CERTIFICATION

I, Maryann V. Young, court approved transcriber, certify that the foregoing is a correct transcript from the official digital sound recording of the proceedings in the above-entitled matter.



Maryann V. Young

July 3, 2006